

View Point

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Yes! Justice Has Been Served!

By Sophia Bekele

According to the objectivist philosophy by Ayn Rand, "one person can act on his understanding and honestly believing that justice is on his or her side, while the other honestly believes that the action violates his or her own rights".

This type of situation then leads to an essential function of government: the protection and enforcement of contracts, including the resolution of disputes that arise there from – their impartial resolution, in accordance with objectively defined laws. For the benefit of the scholar of government and philosophy, Ayn Rand's philosophy dealt with the abstract fundamentals of objectivism and its practical applications in the everyday world including such issues like the reversal of illegal contract awards.

The subject matter of this article relates to the tender process/contract award for the data-networking project at the House of Peoples' Representatives and the House of Federation of the Government of Ethiopia (Federal Parliament of Ethiopia).

It is already common knowledge that the contract/project was originally awarded to GCS/NGR in early 2001 but was later suspended and subsequently cancelled on grounds of irregularities in the tender evaluation process and illegal contract award based on the audit findings of the Federal Auditor-General's Office and the

Ethiopia Ministry of Finance. The Parliament later decided to award the data networking project contract to the second bidder – SbCNetworks Networks Plc. (SbCNet).

There has been a considerable coverage of this matter in the private press, but unfortunately, the real issues underlying the decision by Parliament outside the 'controversy' and 'sensationalism' (entirely created by the press) have not been properly addressed, save one balanced editorial review by Capital.

It is almost possible to assume that the private press has, for all practical intentions, narrowed it only on the 'sensationalistic' value of the story without considering the core values at stake and the precedence-setting processes at work in this matter. Precedence is being set because this is the first time since the renaissance of our democracy that an illegally awarded contract on a national-scale project has been successfully suspended, cancelled and reversed in the interest of higher ideals.

These higher ideals are, in fact, the building blocks of justice and are based on transparency, accountability, responsibility, probity, equity and the like.

Justice is based on the rule of law, which in turn is founded on the philosophical principles enveloping the higher ideals, i.e. you cannot have justice without transparency, neither can the

being accountable or answerable for its actions. Based on the above treatise, therefore, it is quite clear that the concept of justice, and whether it has been served or not, cannot be reasonably and/or objectively decided upon superficially by one newspaper article that was written without due consideration of the cardinal principles underlying justice.

In order to understand justice, we have to look at the philosophy of justice. Before there is justice, you have to have the rule of law in place, and then, it must be underpinned with a storage constitution, then legislative process and governmental authority.

All these are intertwined.

In any democracy, especially in its advanced development, e.g. as practiced in the United Kingdom, the Fourth Estate of the realm is the free and independent press i.e. newspapers and journalists generally. The executive, legislative and judiciary arms of government would normally occupy the positions of first, second and third, respectively. Based on the concept of separation (balance) of powers, which is further based on the rule (supremacy) of law, each estate (or arm of government) contributes its own quota to ensure 'proper checks and balance' in the management of national affairs.

In societies where this democratic culture and experience has been properly developed, the independent and the free press as the fourth estate of the realm contributes its share in the national development process by constructively engaging the

executive and legislative arms to further improve the checks and balance process.

Surprisingly, however, our experience in Ethiopia is different because the fourth estate usually adopts a very antagonistic approach to the first and second estates. In our society, more often than not, the independent and free press is unable to serve this purpose because they do not understand the principles of constructive engagement. This is a sad development, because our national policy cannot be fully developed with this type of attitude from the independent and free press.

A case in point is the matter of the Ethiopian Parliament contract award that was covered by Fortune in its last issue of January 6, 2002 (Volume 2 No 88) having a headline 'Is Justice Served?'

Fortune's article did not consider the background issues pertinent to the contract reversal process, such as the illegality of the initial contract award to GCS/NGR, which formed the basis of the suspension and subsequent cancellation of the project contract by Parliament.

Legality cannot come from illegality. Illegality is a profound threat to justice. In order to ensure justice, illegality must therefore be reversed. It is sad to note that Fortune sacrificed justice on the altar of sensationalist expediency and unwittingly made GCS/NGR look like the victim. This is not good for our democratic experience and it is the opinion of this writer

that it was not the intention of Fortune to ensure that justice was served in its treatment of the coverage of the news story.

While it is not the intention of this writer to speculate on the motives of Fortune in its news coverage and what it intended to achieve by the catchy headline in question, it is still the considered opinion of this writer that the occupants of the fourth estate of this particular land are not living up to their responsibilities in the proper governance process as important contributors to issues of national socio-political development.

Inadvertently, the members of our fourth estate sometimes give the wrong impressions to distant observers (e.g. the Ethiopian Diaspora which the government presently is reaching out to) regarding our democracy by such "unaccountable" journalism.

To close observers, it appears that our democracy is more advanced than our independent and free press. Under normal circumstances, our independent and free press should be contributing by nurturing our democracy.

Just that somebody complained about losing a contract that has resulted in a business loss, does not mean that justice has not been served. Justice is served when government (in this case Parliament) resolutely acts to restore the rule of law in order to counteract a flagrant threat on one or more of the cardinal ideas already discussed. Our democratic experience cannot be enhanced if Parliament ignores obvious infractions in a tender/contract award process that were pointed out by the highest financial authorities of the land.

The Law is supreme and the provisions of the Law must be satisfied at all times. If one or more of the cardinal principles are satisfied, then justice is served. The one and only citadel of law-making in this country is the national parliament, and they are the people who are placed in a better position to understand the meaning of justice and how it can be applied in solving disputes.

I leave the final verdict to the interested observer, but then it is not difficult to see that the issues that would always determine how and when justice is served shall at all times be transparency, accountability, probity, equity and answerability on the part of government. Allowing the illegal contract to GCS/NGR to proceed if the entire process did not pass the standard tests against the aforementioned cardinal principles would have been a great miscarriage of justice.

Justice cannot be served when there is an injustice.

In conclusion, this writer feels vindicated by the outcome of the entire process because the effective decision taken by Parliament to award the contract to SbCNet has been based on the rule of law. The decision is ample proof that when it really matters, parliamentary democratic can work in Ethiopia. The author would like to seize this opportunity to publicly express its thankfulness to the 'second estate' for resolutely ensuring constitutionally and by so doing, reinforcing the faith of citizens in the workability of the rule of law and the supremacy of justice.